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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,126	11/26/2003	Hiroyuki Takahashi	50049-042	4838
7590		03/12/2008	EXAMINER	
MCDERMOTT, WILL & EMERY			HANDY, DWAYNE K.	
600 13th Street, N.W.			ART UNIT	PAPER NUMBER
Washington, DC 20005-3096			1797	
		MAIL DATE	DELIVERY MODE	
		03/12/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/722,126	TAKAHASHI ET AL.
	Examiner DWAYNE K. HANDY	Art Unit 1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 4/5/04, 5/20/04 & 2/27/07
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date: _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the vessel" in line 2, the limitation "the outer periphery" in line 4, the limitation "the top" in line 5, and the limitation "the other end" in line 5. There is insufficient antecedent basis for these limitations in the claim. Claim 2 also recites the term "self-supported". This term is unclear as it is unclear to the Examiner as to what structural features are claimed by the term "self-supported". Claim 2 also contains the phrase "shaped like a long and narrow trapezoid". The term "like" renders the claim indefinite because it is unclear what specific shapes meet the limitation of being shaped "like a long and narrow trapezoid".

Claim 3 recites the limitation "the end". There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation of the retaining part being "shaped like an inverse cup". The term "like" renders the claim indefinite because it is unclear what specific shapes meet the limitation of being shaped "like an inverse cup". Claim 4 recites the

limitation "the center of the top". There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the end". There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the connecting shaft of the connecting part" in lines 3-4. There is insufficient antecedent basis for both of these terms in the claim.

Claim 6 recites the limitation "the end". There is insufficient antecedent basis for this limitation in the claim. Claim 6 recites the limitations "the side" and "the base". There is insufficient antecedent basis for these limitations in the claim. Claim 6 also contains the limitation of the end of an arm having a "slight chevron shape". This is unclear. The term "slight" is a relative term which renders the claim indefinite. How far may the shape deviate from a full chevron shape while still meeting the limitation of a "slight chevron shape"?

Claim 7 recites the limitation "the surface of a chevron shaped top". There is insufficient antecedent basis for this limitation in the claim.

Claim 8 contains the phrase "shaped like a hollow cylinder". The term "like" renders the claim indefinite because it is unclear what specific shapes meet the limitation of being shaped "like a hollow cylinder".

Claim 9 recites the limitation "the connecting part" in line 3, "the shaft supports" in lines 4-5, and "the cap body" in line 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 10 recites the limitation "the inner bottom" in lines 2-3, the limitation "the end of an arm support member" in lines 3-4, and "the back" in line 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 11 recites the limitation "the symmetric shaft bearings" in lines 2-3, the limitation "the side walls" in line 3, and "the arm" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Perrella (4,095,712). Perella teaches a hinged closing element. The closing element is best shown in Figures 1-3 and described in column 2. The closing element is comprised of a sealing member (flap – element #15), a pressurizing member (surface - #19), and retaining part (17). Instructions for using the closure are given in column 2, lines 54-62. The instructions disclose that applying pressure on surface 19, causes the flap 15 to open; releasing the pressure results in closing the flap.

Art Unit: 1797

5. Claims 1, 3, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostrowsky (4,095,712). Ostrowsky teaches a press-to-open closing element. The element is best shown in Figure 5-7 – esp. Figure 6. The closing element includes a sealing member (closure -#40), a pressurizing member (arm - #32) and a retaining part (arm - #34). Ostrowsky provides on how to use the closure in column 5, lines 33-50. When pressure is applied on arm 32, closure member 40 opens; when the pressure is released, the closure element returns to the closed position.

Inventorship

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrowsky (5,735,438). Ostrowsky teaches every element of claim 13 except for the collection of material. It would have been obvious to one of ordinary skill in the art, however, to also collect materials using the container and closure of Ostrowsky. One would use the container and closure of Ostrowsky in order to take advantage of the one-handed operation of the closing element while collecting materials to be stored in the container.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ostrowsky (4,776,501), Baker et al. (6,763,945), Hins (6,336,574), Knickerbocker et al. (6,283,333), Robbins, III et al. (5,894,965) Campbell (5,273,177) and Taber et al. (4,607,768) teach closure systems operating by pressing.

Art Unit: 1797

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE K. HANDY whose telephone number is (571)272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DKH
March 3, 2008

/Jill A. Warden/
Supervisory Patent Examiner, Art Unit 1797

Notice of References Cited		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/722,126	TAKAHASHI ET AL.	
Examiner		Art Unit	Page 1 of 1	
DWAYNE K. HANDY		1797		

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,095,712	06-1978	Perrella, Emilio	220/254.5
*	B	US-5,735,438	04-1998	Ostrowsky, Efrem	222/153.06
*	C	US-4,776,501	10-1988	Ostrowsky, Efrem M.	222/517
*	D	US-6,763,945	07-2004	Baker et al.	206/540
*	E	US-6,336,574	01-2002	Hins, Johannes	222/518
*	F	US-6,283,333	09-2001	Knickerbocker et al.	222/153.14
*	G	US-5,894,965	04-1999	Robbins et al.	222/444
*	H	US-5,273,177	12-1993	Campbell, Phillip J.	220/281
*	I	US-4,607,768	08-1986	Taber et al.	222/556
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Docket No.: 50049-042

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Hiroyuki TAKAHASHI, et al. : Confirmation Number: 4838
Serial No.: 10/722,126 : Group Art Unit: 1744
Filed: November 26, 2003 : Examiner: Unknown
For: REAGENT VESSEL CAP AND METHOD FOR COLLECTING REAGENT

INFORMATION DISCLOSURE STATEMENT

Mail Stop IDS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with the provisions of 37 C.F.R. 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the documents listed on the attached form PTO-1449. It is respectfully requested that the documents be expressly considered during the prosecution of this application, and that the documents be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

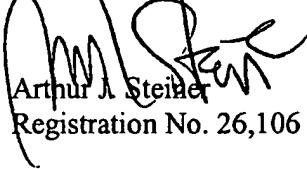
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10/722,126

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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Facsimile: (202) 756-8087
Date: April 5, 2004

INFORMATION DISCLOSURE CITATION IN AN APPLICATION (PTO-1449)				ATTY. DOCKET NO. 50049-042	SERIAL NO. 10/722,126	
				APPLICANT Hiroyuki TAKAHASHI, et al.		
				FILING DATE November 26, 2003	GROUP 1744	
U.S. PATENT DOCUMENTS						
EXAMINER'S INITIALS	CITE NO.	Document Number Number-Kind Code ₂ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	
		US				
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FOREIGN PATENT DOCUMENTS						
EXAMINER'S INITIALS	CITE NO.	Foreign Patent Document Country Codes -Number & -Kind Codes (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Figures Appear	Translation
		JP 5-294354	11/09/1993	SYNTEX USA INC		Yes No
		JP 11-194132	07/21/1999	DADE BEHRING MARBURG GMBH		(Japan w/English Abstract)
		JP P2000-137032A	05/16/2000	OLYMPUS OPTICAL CO LTD		(Japan w/English Abstract)
		EP 0 543 638 A1	05/26/1993	SYNTEX (U.S.A) INC.		In English
		WO 95/08774	03/30/1995	ABBOTT LABORATORIES		
		JP P34-48061	07/04/2003			
OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)						
EXAMINER'S INITIALS	CITE NO.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.				
ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /DH/ (03/03/2008)						
EXAMINER /Dwayne Handy/ (03/03/2008)			DATE CONSIDERED 03/03/2008			

***EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). **2** A

Docket No.: 50049-042



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Hiroyuki TAKAHASHI, et al. : Confirmation Number: 4838
Serial No.: 10/722,126 : Group Art Unit: 1744
Filed: November 26, 2003 : Examiner:
For: REAGENT VESSEL CAP AND METHOD FOR COLLECTING REAGENT

INFORMATION DISCLOSURE STATEMENT

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Alexandria, VA 22313-1450

Dear Sir:

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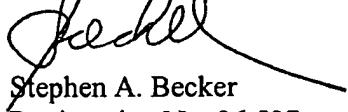
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10/722,126

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY


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Facsimile: (202) 756-8087
Date: May 20, 2004

INFORMATION DISCLOSURE CITATION IN AN <i>PTO-1449</i> APPLICATION 				ATTY. DOCKET NO. 50049-042	SERIAL NO. 10/722,126		
				APPLICANT Hiroyuki TAKAHASHI, et al.			
				FILING DATE November 26, 2003	GROUP 1744		
U.S. PATENT DOCUMENTS							
EXAMINER'S INITIALS	CITE NO.	Document Number Number-Kind Code(s if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear		
	US	5,901,885	05/11/1999	Iida			
	US	2,378,451	-	W.E. Vensel			
	US	3,384,275	-	James B. Simms			
	US	6,257,452 B1	07/10/2001	Allen			
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FOREIGN PATENT DOCUMENTS							
EXAMINER'S INITIALS	CITE NO.	Foreign Patent Document Country Codes-Number-Kind Codes (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Figures Appear	Translation	
						Yes	No
		AUP. 207063	01/11/1960	-			x
OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)							
EXAMINER'S INITIALS	CITE NO.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.					
ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /DH/ (03/03/2008)							
EXAMINER <i>/Dwayne Handy/ (03/03/2008)</i>				DATE CONSIDERED <i>03/03/2008</i>			

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1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

Docket No.: 050049-00423



gfw

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Hiroyuki TAKAHASHI, et al. : Confirmation Number: Not Yet Assigned
Application No.: 10/722,126 : Group Art Unit: 1743
Filed: November 26, 2003 : Examiner: Dwayne K. Handy

For: REAGENT VESSEL CAP AND METHOD FOR COLLECTING REAGENT

INFORMATION DISCLOSURE STATEMENT

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

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10/722,126

Please charge any shortage in fees due in connection with the filing of this paper,
including extension of time fees, to Deposit Account 500417 and please credit any excess fees to
such deposit account.

Respectfully submitted,

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Facsimile: 202.756.8087
Date: February 27, 2007

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SHEET 1 OF 1

INFORMATION DISCLOSURE
CITATION IN AN
APPLICATION

(PTO-1449)

ATTY. DOCKET NO.
050049-0042

SERIAL NO.
10/722,126

APPLICANT
Hiroyuki TAKAHASHI, et al.

FILING DATE
November 26, 2003

GROUP
1743

U.S. PATENT DOCUMENTS

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	US				

FOREIGN PATENT DOCUMENTS

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		JP 10-035709	10/02/1998	NIPPON I P KK		JAPAN (w/ English Abstract)
		EP 0 714 834 A1	06/05/1996	CHIN-HO HSU		x
		JP 11-304805	11/05/1999	HORIBA LTD		JAPAN (w/ English Abstract)

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER'S INITIALS	CITE NO.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	
		Japanese Office Action for Corresponding Application No. 2002-343448 Issued July 25, 2006	

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH /DH/ (03/03/2008)

EXAMINER

DATE CONSIDERED

/Dwayne Handy/ (03/03/2008)

03/03/2008

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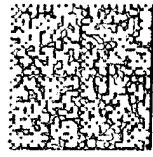
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